

Lawyers explain key factors in Kolby Listenbee lawsuit against Gary Patterson, TCU



Christian Petersen/Getty Images

Former TCU receiver Kolby Listenbee is suing TCU and Gary Patterson for allegedly harassing him into playing through an injury.



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The Kolby Listenbee lawsuit against Gary Patterson and TCU will come down to whether the former Horned Frog receiver can prove causation in three key areas, according to Dallas attorney Rogge Dunn.

Listenbee **has accused Patterson and other members of the TCU coaching staff of harassment and abuse** as they tried to get him to play through a pelvic injury in 2015. Dunn told the **Fort Worth Star-Telegram's Drew Davison** that Listenbee's suit could have merit, but he has to prove causation on three issues.

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1. Listenbee must prove he was rushed back from his injury too soon.

Attorneys for Listenbee claim he should have been given six months to recover from his injury. Instead, he was back on the field within three weeks. Listenbee's attorneys have to get a medical professional to agree that he shouldn't have been playing so soon after the injury.

"You're going to need a doctor to say, 'He should've sat on the sideline and been given time to allow the injury to naturally heal as opposed to rushing him back and giving him drugs to mask the pain,'" Dunn said.

According to **Sports Illustrated legal expert Michael McCann**, TCU will probably dispute Listenbee's account of his return to the field, as well as what he said about coaches pressuring him to come back before he was ready.

From SI:

Expect the defendants to argue that Listenbee's health was of paramount concern and that they would never knowingly place a player in a position that could cause him further harm or that would interfere with his recovery. They might say Listenbee wasn't clear about his injury and his recovery. Perhaps they have emails or texts from Listenbee that cast him in a different light than how he is portrayed in his own complaint.

2. Listenbee must prove TCU's treatment of his injury caused permanent damage.

The receiver says he received cortisone shots before and sometimes during games so that he would be able to play through the pain of his injury.

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"Without his knowledge, the injections, specifically the corticosteroids, were deteriorating Kolby's cartilage, muscles, and the entire infrastructure of his pelvis," the lawsuit claims.

He will also need a doctor to agree with that assertion, according to Dunn, and support the claim that the damage is probably why Listenbee later had surgery on two sports hernias.

3. Listenbee must prove TCU's treatment of his injury hurt his NFL draft stock.

Dunn said an NFL general manager or other personnel expert would need to support Listenbee's claim that his injury cause him to fall in the draft, thus hurting his future wage-earning potential. He

was selected in the sixth round of the 2016 NFL Draft by the Buffalo Bills, but injuries have kept him off the field for much of his time in the league.

However, this may be a tough point for Listenbee to prove. He ran a 4.39 40-yard dash at the 2016 NFL Scouting Combine, the second-fastest of any receiver in the draft, despite the injury.

From SI:

With the fear of having to pay monetary damages in mind, the defendants might also highlight that Listenbee's health didn't stop him from excelling at the scouting combine and didn't dissuade an NFL team from drafting him over many other wide receivers. And while injuries have clearly interfered with Listenbee's NFL career, the Colts thought as recently as month ago he was healthy enough to sign.

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TCU **has countersued** to be removed from the the lawsuit. Listenbee is seeking \$1 million in damages.

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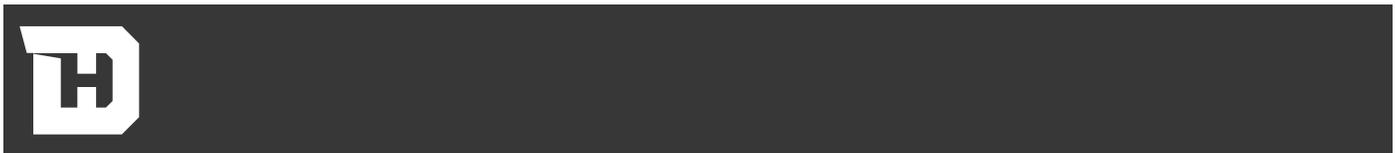
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